

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LUIS CABRERA,)	
)	
Petitioner,)	
)	
)	
v.)	No. 11-00784-LPS
)	
)	
PERRY PHELPS, Commissioner,)	
Delaware Department of Correction; and)	
Dana METZGER, Warden, James T.)	
Vaughn Correctional Center at Smyrna,)	
)	
Respondents.)	

JOINT STATUS REPORT

The parties file this Joint Status Report.

1. On November 2, 2011, the Capital Habeas Unit of the Federal Defender Office for the District of Delaware was appointed pursuant to 18 U.S.C. § 3599(a)(2) to represent Petitioner Luis Cabrera for the purpose of preparing and filing a habeas corpus petition.

2. When the Court appointed the Federal Defender for the District of Delaware in 2011, Mr. Cabrera's motion for post-conviction relief was pending in the Superior Court of the State of Delaware.

3. Mr. Cabrera filed his second Amended and Restated Motion for Post-conviction Relief pursuant to Superior Court Criminal Rule 61 in the Delaware Superior Court on October 4, 2012. The Superior Court held evidentiary hearings in October 2012 and on April 1, 2013. From April to October 2014, Mr. Cabrera and the State of Delaware filed post-evidentiary hearing briefs.

4. On June 17, 2015, the Delaware Superior Court vacated Mr. Cabrera's death sentence, finding that trial counsel was constitutionally ineffective in their investigation and presentation of mitigation. The Superior Court affirmed Mr. Cabrera's convictions.

5. Mr. Cabrera and the State of Delaware both filed notices of appeal from the Superior Court's order and opinion. Mr. Cabrera filed his Opening Brief on October 29, 2015, and the State filed its Answering Brief/Opening Brief on January 11, 2016. On February 8, 2016, the Delaware Supreme Court stayed the proceedings pending the Court's decision in *Rauf v. State*, 145 A.3d 430 (Del. 2016), and continued to stay the proceedings pending the outcome of *Powell v. State*, 153 A.3d 69 (Del. 2016).

6. On February 10, 2017, the Delaware Supreme Court dismissed the State's cross-appeal pursuant to the parties' stipulation of dismissal in light of *Powell*. The parties filed revised briefs limited to the issues remaining in the appeal. Oral argument was held before the Delaware Supreme Court on June 7, 2017.

7. On July 31, 2017, the Delaware Supreme Court affirmed Mr. Cabrera's conviction, *Cabrera v. State*, 2017 WL 3259704 (Del. July 31, 2017), and the mandate issued from the Delaware Supreme Court on August 16, 2017.

8. On September 11, 2017, Mr. Cabrera's prior federal habeas counsel from the Capital Habeas Unit for the District of Delaware filed a motion to substitute undersigned counsel because of a conflict posed by potential *Martinez* litigation. Doc. 14. This Court granted that motion and substituted undersigned counsel on October 12, 2017. Doc. 15.

9. On November 27, 2017, Mr. Cabrera filed a Motion to Impose a Sentence in the Superior Court of Delaware for consideration before the Honorable Andrea L. Rocanelli. The

State responded to the motion on December 11, 2017. The Superior Court denied Mr. Cabrera's motion to impose a sentence on December 19, 2017.

10. On January 19, 2018, the Superior Court resentenced Mr. Cabrera to two life sentences without the benefit of probation or parole or any other reduction, and an additional 35 years at Level V incarceration. Mr. Cabrera appealed. His appeal is currently pending before the Delaware Supreme Court.

Respectfully submitted,

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Dated: February 28, 2018